



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-909]

#### **Certain Steel Nails from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On July 12, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Fastenal Company Purchasing v. United States*, Court No. 17-00269, sustaining the Department of Commerce (Commerce)'s remand redetermination pertaining to a scope ruling in which Commerce found Fastenal Company Purchasing's (Fastenal's) zinc and nylon anchors to be outside the scope of the antidumping duty (AD) order on certain steel nails (nails) from the People's Republic of China (China). Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's scope ruling, and that Commerce is amending the scope ruling to find that zinc and nylon anchors are not covered by the order.

**DATES:** Applicable July 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Kelsie Hohenberger, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2517.

## Background

On October 13, 2017, Commerce found Fastenal's zinc and nylon anchors, which consist of a zinc, steel, or nylon body component and a steel pin component, to be within the scope of the AD order on nails from China.<sup>1</sup>

Fastenal appealed Commerce's *Final Scope Ruling*. On June 11, 2018, the CIT stayed the case pending a final and conclusive determination from the U.S. Court of Appeals for the Federal Circuit (CAFC) in *OMG*.<sup>2</sup> In light of the CAFC's decision, Commerce requested that the CIT remand this matter for further consideration. On November 12, 2020, the CIT remanded the *Final Scope Ruling* to Commerce.<sup>3</sup>

In its final remand redetermination, issued in February 2021, Commerce found Fastenal's zinc and nylon anchors to be outside the scope of the AD order on nails from China.<sup>4</sup> The CIT sustained Commerce's final redetermination.<sup>5</sup>

## Timken Notice

In its decision in *Timken*,<sup>6</sup> as clarified by *Diamond Sawblades*,<sup>7</sup> the CAFC held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's July 12, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Scope Ruling*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

## Amended Final Scope Ruling

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<sup>1</sup> See Memorandum, "Antidumping and Countervailing Duty Orders on Certain Steel Nails from the People's Republic of China: Final Scope Ruling on Fastenal Company Purchasing's Anchors," dated October 13, 2017 (*Final Scope Ruling*).

<sup>2</sup> See *OMG, Inc. v. United States*, 972 F.3d 1358 (Fed. Cir. 2020) (*OMG*).

<sup>3</sup> See *Fastenal Company Purchasing v. United States*, Court No. 17-00269, ECF No. 41 (CIT November 12, 2020).

<sup>4</sup> See Final Results of Redetermination Pursuant to *Fastenal Company Purchasing v. United States*, Court No. 17-00269, ECF No. 41 (CIT November 12, 2020), dated February 9, 2021.

<sup>5</sup> See *Fastenal Company Purchasing v. United States*, Slip Op. 21-85, Court No. 17-00269 (CIT 2021).

<sup>6</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>7</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

In accordance with the CIT's July 12, 2021, final judgment, Commerce is amending its *Final Scope Ruling* and finds that the scope of the AD order on nails from China does not cover the products addressed in the *Final Scope Ruling*.

#### Liquidation of Suspended Entries

Commerce will instruct U.S. Customs and Border Protection (CBP) that, pending any appeals, Fastenal's zinc and nylon anchors will not be subject to a cash deposit requirement. In the event that the CIT's final judgment is not appealed or is upheld on appeal, Commerce will instruct CBP to liquidate entries of Fastenal's zinc and nylon anchors without regard to antidumping duties and to lift suspension of liquidation of such entries.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) of the Act.

Dated: July 16, 2021.

**Christian Marsh,**  
*Acting Assistant Secretary for Enforcement and Compliance.*

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